

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSEPH BUNCE,

Plaintiff,

**MEMORANDUM & ORDER**

25-CV-1121 (EK) (LGD)

-against-

JOHN DOE C.O. #1, JOHN DOE C.O. #2,  
SUFFOLK COUNTY CORRECTIONAL FACILITY,  
and THE MEDICAL DEPARTMENT SCCF,

Defendants.

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ERIC KOMITEE, United States District Judge:

Joseph Bunce sues Suffolk County Correctional Facility, its medical department, and two of its correctional officers. Proceeding *pro se*, he asserts that the defendants' failure to fix a pothole in the facility's exercise yard – which allegedly caused him to break his foot – violated his rights under the Fourth, Eighth, and Fourteenth Amendments. He also moves to proceed *in forma pauperis*. That motion is granted for purposes of this order, but for the reasons set forth below, the complaint is dismissed for failure to state a claim.<sup>1</sup>

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<sup>1</sup> Bunce does not allege that he has exhausted his administrative remedies pursuant to the Prison Litigation Reform Act ("PLRA"). Compl. 2, ECF No. 1; see also 42 U.S.C. § 1997e(a). But this does not preclude the Court from reaching the merits of his claim. While the PLRA permits *sua sponte* dismissal for failure to state a claim, it does not expressly permit such dismissal for failure to exhaust. *Id.* § 1997e(c). There is, therefore, "no reason to suppose" that the statute permits "judicial screening of complaints specifically for failure to exhaust." *Jones v. Bock*, 549 U.S. 199, 214 (2007).

## **I. Background**

The following allegations are drawn from the complaint, and are presumed true for purposes of this order. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Bunce was playing basketball in the Suffolk County Correctional Facility's exercise yard. Compl. 4, ECF No. 1. He stepped into a pothole and injured his foot. *Id.* Correctional officers did not immediately tend to Bunce. *Id.* But once he had "yell[ed] out in pain," they "realize[d] [he] was really hurt" and escorted him to the facility's medical center. The facility's medical personnel initially diagnosed the injury as "just a fracture," but a doctor then determined that he had "broken" the foot. *Id.* The medical personnel set his foot and placed it in a cast. *Id.* at 5. Bunce now seeks compensatory and punitive damages of \$320,000. *Id.*

## **II. Legal Standard**

A complaint must plead sufficient facts to "state a claim for relief that is plausible on its face." *Twombly*, 550 U.S. at 570.<sup>2</sup> A claim is plausible when it "raise[s] a right to relief above the speculative level." *Id.* at 555. The plaintiff cannot merely rely on "labels and conclusions" or a "formulaic recitation of the elements of a cause of action." *Id.*

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<sup>2</sup> Unless otherwise noted, when quoting judicial decisions this order accepts all alterations and omits all citations, footnotes, and internal quotation marks.

When an incarcerated person brings a civil complaint concerning prison conditions, the court may dismiss it *sua sponte* if, among other things, it “fails to state a claim upon which relief may be granted.” 42 U.S.C. § 1997e(c)(1). The same rule applies to a plaintiff who seeks to proceed *in forma pauperis*. 28 U.S.C. § 1915(e)(2)(B).

A court must construe *pro se* complaints to raise the strongest arguments that they suggest. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). But *pro se* status “does not exempt a party from compliance with relevant rules of procedural and substantive law.” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 477 (2d Cir. 2006) (per curiam).

### **III. Discussion**

The complaint (liberally construed) appears to bring two types of claims. First, Bunce claims that the defendants violated his constitutional rights by negligently failing to repair “cracked, pot-holed grounds which should have been Black-Topped or Cemented.” Compl. 5. Second, he claims that the defendants were deliberately indifferent to his medical needs after the fall. *Id.* Neither claim is sufficient to avoid dismissal.

It is hornbook law that negligence is not actionable under Section 1983. *Davidson v. Cannon*, 474 U.S. 344, 347-48 (1986). Courts have applied this rule to dismiss complaints

remarkably like Bunce's. For instance, in *Tingle v. New York*, the court held that Section 1983 did not extend to negligence claims arising from a prisoner's fall "into a huge pothole that was directly next to" a prison facility's basketball court. No. 20-CV-423, 2020 WL 7711426, at \*2-3 (W.D.N.Y. Dec. 29, 2020). Other courts have "routinely" reached similar conclusions. See *Anderson v. Lalley*, No. 12-CV-6355, 2015 WL 6686586, at \*10 (W.D.N.Y. Oct. 29, 2015) (collecting cases).

Bunce's deliberate-indifference claim fares no better. To state a claim for deliberate indifference under the Eighth Amendment, an incarcerated person must allege that a "prison official knew of and disregarded [his or her] serious medical needs." *Harrison v. Barkley*, 219 F.3d 132, 137 (2d Cir. 2000). If anything, the complaint here alleges the opposite. Bunce alleges that the defendants came to his aid "immediately" after they "realize[d] [he] was really hurt." Compl. 4. And while he suggests that facility personnel initially underestimated the severity of his injury, *id.*, he never alleges that their treatment was otherwise insufficient or improper. Thus, Bunce's deliberate-indifference claim must be dismissed.

#### **IV. Conclusion**

For the foregoing reasons, the complaint is dismissed for failure to state a claim. The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that any appeal from this order would not

be taken in good faith, and therefore denies in forma pauperis status for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). The Clerk of Court is respectfully directed to mail a copy of this order to Bunce, to note the mailing on the docket, and to close the case.

SO ORDERED.

/s/ Eric Komitee  
ERIC KOMITEE  
United States District Judge

Dated: July 8, 2025  
Brooklyn, New York